

I. Legislation

- a. Discussion of Proposed Legislation for 2010: AB 1431, AB 1659, AB 2038, AB 2130, SB 275, SB 294, SB 1111, SB 1171, and SB 1491 (Possible Action)

# Board for Professional Engineers and Land Surveyors

## 2010 Legislative Session

- AB 1431** Hill. Geologists and geophysicists. This bill would rename the Board for Professional Engineers and Land Surveyors to the Board for Professional Engineers, Land Surveyors, and Geologists. The bill would change the membership of the Board to 15 to include a professional member licensed under the Geologists and Geophysicists Act and an additional public member.  
STATUS: Introduced 2/27/09 last amended 4/27/10. On Senate Floor – 3<sup>rd</sup> reading.  
BOARD POSITION: **Support**
- AB 1659** Huber. State Government: agency repeals. This bill creates the Joint Sunset Review Committee to identify and eliminate waste, duplication, and inefficiency in government agencies.  
STATUS: Introduced 1/19/10 last amended 6/2/10. Passed Assembly - in Senate Rules.  
BOARD POSITION: **Watch**
- AB 2038** Eng. Franchise Tax Board: professional or occupational licenses. This bill would permit a state governmental licensing entity, that issues professional or occupational licenses, certificates, registrations, or permits, to suspend, revoke, or refuse to issue a license where the applicant or licensee has failed to pay income taxes, subject to specified procedures.  
STATUS: Introduced 2/17/10. Last amended 4/27/10. Referred to Committee on Appropriations – HELD UNDER SUBMISSION.  
BOARD POSITION: **Oppose**
- AB 2130** Huber. Professions and vocations: sunset review. This bill would abolish the Joint Committee on Boards, Commissions, and Consumer Protection. The bill would instead make specified boards and regulatory programs subject to review by the Joint Sunset Review Committee. It is intended that the review of the boards of DCA will be done by Senate and Assembly B&P Committees. This bill does not become operative unless AB 1659 is enacted.  
STATUS: Introduced 1/18/10. Last amended 6/22/10. Re-referred to Committee on Senate Appropriations.  
BOARD POSITION: **Watch**
- SB 275** Walters. Professional engineers. This bill would change the disciplines currently licensed as “title act” engineers to “practice act” engineers.  
STATUS: Introduced 2/24/09 amended 1/4/10. Heard in SEN B,P&ED Committee 4/20/09 and 1/11/10. FAILED PASSAGE out of Committee.  
BOARD POSITION: **Watch**

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- SB 294**      Negrete McLeod. Department of Consumer Affairs: regulatory boards. This bill lists/changes sunset dates for various DCA regulatory boards and bureaus.  
STATUS: Introduced 2/25/09. Last amended 6/16/10. In Assembly Appropriations.  
RECOMMENDED POSITION: **Support**  
BOARD POSITION:
- SB 1111**      Negrete McLeod. Regulatory boards. This bill focuses on the healing arts boards and programs under DCA.  
STATUS: Introduced 2/17/10. Scheduled to be heard in SEN B,P&ED Committee 4/19/10. FAILED PASSAGE out of Committee.  
BOARD POSITION: Bill FAILED PASSAGE prior to review by Board
- SB 1171**      Negrete McLeod. Regulatory boards: operations. This bill would abolish the Joint Committee on Boards, Commissions, and Consumer Protection and would authorize the appropriate policy committees of the Legislature to carry out its duties. The bill would terminate the terms of office of each board member or bureau chiefs and would authorize successor board members and bureau chiefs to be appointed.  
STATUS: Introduced 2/18/10 amended 4/5/10. This bill will NOT BE MOVING FORWARD. AB 2130 and SB 294 now contain the changes that were in SB 1171.  
BOARD POSITION: **Support**
- SB 1491**      Committee on Business, Professions & Economic Development. Professions and vocations. This bill is a Committee omnibus bill and, among other things, contains minor changes regarding application fees and allows applicants qualifying for the EIT to use education or experience or a combination of education and experience totaling 3 years.  
STATUS: Introduced March 11, 2010 amended 6/16/10.  
RECOMMENDED POSITION: **Support**  
BOARD POSITION:

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**BILL: AB 1431**

**AUTHOR: Hill**

**TOPIC:** Geologists and geophysicists

**DATE OF INTRODUCTION:** 2/27/09

**MOST RECENT VERSION:** 4/27/10

**ANALYSIS DATE:** 7/16/10

**BILL'S LEGISLATIVE HISTORY:** On Senate Floor – 3<sup>rd</sup> reading

**RECOMMENDED POSITION:** Support

**BOARD POSITION:** Support

**SUMMARY:**

As amended, this bill will rename the Board for Professional Engineers and Land Surveyors to the Board for Professional Engineers, Land Surveyors, and Geologists (the term Geophysicists was amended out of the bill). This bill will also change the membership of the Board to 15 by including a professional member licensed under the Geologists and Geophysicists Act and an additional public member.

**COMMENT:**

A few meetings ago, the Board took a "support if amended" position on this bill. The Board supported the addition of "Geologists" to the name of the Board but did not support the addition of "Geophysicists" to its name. The Board believed that including geophysicists was not appropriate since the Board regulates many branches of engineering that are not listed in its name. Furthermore, it is not intended to slight the 200 licensed geophysicists, but to specifically include them in the Board's name, just does not seem necessary. April 5, 2010, the bill was amended to include only the addition of "Geology" to the name of the Board.

All non-health related boards of the Department of Consumer Affairs are comprised of public member majorities by so adding an additional public member to the Board (in addition to a licensed geologist or geophysicist), for a total of 15 members seems reasonable.

This bill is being sponsored by the Professional Engineers in California Government (PECG).

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**BILL:** AB 1659

**AUTHOR:** Huber

**TOPIC:** State government: agency repeals

**DATE OF INTRODUCTION:** 1/19/10

**MOST RECENT VERSION:** 6/02/10

**ANALYSIS DATE:** 7/16/10

**BILL'S LEGISLATIVE HISTORY:** Passed out of Assembly in Senate Rules.

**RECOMMENDED POSITION:** Watch

**BOARD POSITION:** Watch

**SUMMARY:**

This bill would create the Joint Sunset Review Committee to identify and eliminate waste, duplication, and inefficiency in government agencies and to conduct a comprehensive analysis of every agency to determine if the agency is still necessary and cost effective. The bill would require each agency scheduled for repeal to submit a report to the committee containing specified information and provides for public hearings by the committee.

**COMMENT:**

According to the author's office, "Legislators create new boards, commissions, agencies and departments to solve a problem and then do not maintain oversight of the newly created bureaucracy to ensure it actually solved the problem it was created to solve or determine if the problem is worse. This systemic problem can be fixed by conducting comprehensive, regular reviews of state government to ensure taxpayer dollars are being used wisely."

This bill is consistent with provisions of existing law governing the sunset review process for boards and bureaus under the Department of Consumer Affairs. AB 2130 (Huber) is a companion measure to this bill.

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**BILL:** AB 2038

**AUTHOR:** Eng

**TOPIC:** Franchise tax board: professional or occupational licenses

**DATE OF INTRODUCTION:** 2/17/10

**MOST RECENT VERSION:** 4/27/10

**ANALYSIS DATE:** 7/16/10

**BILL'S LEGISLATIVE HISTORY:** In Committee on Appropriations – held under submission

**RECOMMENDED POSITION:** Oppose

**BOARD POSITION:** Oppose

**SUMMARY:**

This bill would require a state governmental licensing entity to provide to the Franchise Tax Board (FTB) the name and social security number or federal taxpayer identification number of each individual licensee. [This is already done under current law.] This bill permits a state governmental licensing entity (SGLE) and the Franchise Tax Board (FTB) to suspend state occupational and professional licenses due to unpaid tax liabilities. This bill authorizes a SGLE, until January 1, 2016, to deny, revoke, or suspend a license to a licensee who has failed to pay outstanding tax liabilities. This bill requires that a SGLE that has not denied or suspended a license within 90 days of mailing a preliminary notice, to promptly notify FTB and the licensee to state why no action was taken. This bill allows the FTB to suspend a professional license if – a licensee fails to pay taxes for which a notice of state tax lien has been recorded and if the licensee has not been suspended, revoked, or denied by the applicable SGLE. This bill would require the FTB to send a preliminary notice of license suspension to any licensee 60 days prior to a notice of suspension. If the licensee fails to satisfy the unpaid taxes by a certain date, the license shall automatically be suspended. It would further provide that the suspension be canceled upon compliance with the tax obligation. The licensee may fulfill the tax obligation by paying in full or entering into an installment agreement. The license suspension may be canceled if the licensee can demonstrate a financial hardship.

**COMMENT:**

Existing law allows FTB access to information on Board licensees for purposes of detecting income tax evasion. Those who hold a California license and do not file taxes in California are pursued by FTB for possible nonpayment of state income tax.

The Board receives numerous phone calls from licensees and even EITs who have received wrongful demands from FTB for payment of taxes on wages they never earned. Frequently because the FTB is using an old address to contact the licensee, the licensee is not even aware of the situation until they learn a lien has been placed against them. This is unfair to the licensee as it can affect their credit rating and their ability to make major purchases, such as buying a home. This bill would give FTB further authority--the ability to suspend a license--which could have major impact on the licensee's ability to earn a living.

The authority to suspend a license should remain solely with the licensing board.

In the 2008 legislative session, AB 1925 (Eng) was introduced and in the 2009 legislative session, AB 484 (Eng) was introduced with language similar to the language in AB 2038. AB 1925 failed passage from the Senate Revenue and Tax Committee and AB 484 failed passage from the Assembly Business and Professions Committee.

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**BILL:** AB 2130

**AUTHOR:** Huber

**TOPIC:** Professions and vocations: sunset review

**DATE OF INTRODUCTION:** 2/18/10

**MOST RECENT VERSION:** 6/22/10

**ANALYSIS DATE:** 7/16/10

**BILL'S LEGISLATIVE HISTORY:** Re-referred to Committee on Senate Appropriations

**RECOMMENDED POSITION:** Watch

**BOARD POSITION:** Watch

**SUMMARY:**

This bill makes specified boards subject to review by the new Joint Sunset Review Committee (JSRC) created by the companion measure (AB 1659 – Huber) and eliminates the Joint Committee on Boards, Commissions, and Consumer Protection (Joint Committee).

**COMMENT:**

According to the author's office, "AB 2130 serves as the implementation bill for the JSRC created in AB 1659 (Huber) by defining which government entities will be subject to the JSRC's review. AB 2130 seeks to establish accountability and oversight for government entities by requiring a systematic review and evaluation of state entities."

This bill is consistent with provisions of existing law governing the sunset review process for boards and bureaus under the Department of Consumer Affairs. AB 1659 (Huber) is a companion measure to this bill.



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**BILL:** SB 275

**AUTHOR:** Walters

**TOPIC:** Professional Engineers

**DATE OF INTRODUCTION:** 2/24/09

**MOST RECENT VERSION:** 1/4/10

**ANALYSIS DATE:** 7/15/10

**BILLS LEGISLATIVE HISTORY:** Failed passage out of Senate Business, Professions & Economic Development Committee – 2/24/09 and again on 1/11/10.

**RECOMMENDED POSITION:** Watch

**BOARD POSITION:** Watch

**SUMMARY:** This bill would prohibit the practice of agricultural, chemical, control system, fire protection, industrial, metallurgical, nuclear, petroleum, and traffic engineering by any person who has not passed a specified examination and who is not appropriately licensed by the Board for Professional Engineers and Land Surveyors in the particular discipline. In other words, this bill converts “title act” disciplines to “practice act” disciplines.

**HISTORY:** The issue of title acts and what should be done about them has been a concern of the Board for over 25 years. After various studies, task forces, and legislation, the Board continues to arrive at the same conclusion that it would be best to leave “title acts” as they are or to leave some of them as they are and to eliminate others. In 2000, the Joint Legislative Sunset Review Committee (JLSRC), the Department of Consumer Affairs (DCA), and the Board decided that the best way to address the “title act” issue was to contract with an independent consultant to perform a review of all of the title act branches of engineering. The report that was prepared by the independent consultant (ISR) was completed in November of 2002. The report concluded, among other things, that the state should eliminate title protection and offer practice protection to all regulated disciplines. A Task Force was then appointed by the Board consisting of two members of the Board, Committee consultants of the Legislature, a representative from DCA, and other various members of the public and two professional engineers (not members of the Board). The Task Force began meeting in August of 2003 and held five meetings throughout the state to discuss the ISR recommendations and receive public comment regarding those recommendations or others being considered by the Task Force. The Task Force completed its work in January of 2004 and made its recommendations to the Board. The Board, with minor changes, approved the Task Force recommendations in May of 2004. The JLSRC met in June 2004, adopted all the Board’s recommendations and the next year, on June 20, 2005, placed them into a bill, SB 246. SB 246 included language that established chemical, control systems, fire protection, nuclear, petroleum, and traffic engineering as “practice acts” and discontinued examinations for the title disciplines of agricultural, industrial, and metallurgical engineering. Among other things, SB 246 provided that the professional practice of engineering in the branches recognized by the Board may overlap, but with specified provisions. SB 246 was met with vigorous opposition and was having difficulty making it through the Legislature. In July 2005, it was scheduled to be heard in the Assembly Committee on Business and Professions (B&P), but due to the opposition it was “held” in Committee.

In 2005/2006, the Assembly B&P Committee held a number of meetings regarding the issue of converting the “title act” disciplines to “practice acts.” The meetings were comprised of numerous groups and individuals who expressed an interest – both pro and con – to the language in SB 246 to



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make such conversions. The goal of the meetings was to arrive at language that was acceptable to most, if not all, of the parties. Agreeable language could not be reached, so after much discussion between the Board and the JLSRC, the decision was made that the language to convert "title act" disciplines to "practice acts" should be dropped from the bill. The Board voted at its March 17, 2006, meeting to support the removal of the language to convert "title act" disciplines to "practice act" disciplines.

**COMMENT:** Many people who are currently licensed in "title act" disciplines were grandfathered (licensed without examination) into those disciplines, although it is becoming fewer and fewer each year. This brings up another issue: most of the "title act" disciplines are shrinking (see below) and may eventually go away on their own through attrition. The Board needs to consider that many unlicensed people are currently legally doing work that would suddenly become protected if "title acts" are converted to "practice acts"; these people would no longer be able to do their jobs. Therefore, SB 275 could be seen as a "job killer" and, in this economy, may reflect poorly on this bill.

SB 275 is sponsored by the Farm Bureau and Chemical Industry Council. American Council of Engineering Companies (ACEC CA) and Professional Engineers in California Government (PECG) have taken an OPPOSED position to this bill.

The Chairman of the Senate Business, Professions and Economic and Development Committee, Senator Negrete McLeod, stated at the 1/11/10 Committee hearing that she would like the various groups supporting and opposing SB 275 to start meeting to come up with an agreeable solution to concerns regarding title act disciplines.

Branch of Engineering	Number of Licensees FY 1999/2000	Number of Licensees As of 3/11/2009
Agricultural	309	196
Chemical	2140	1928
Control System	2410	1407
Fire Protection	883	751
Industrial	854	457
Metallurgical	417	274
Nuclear	1038	615
Petroleum	482	382
Traffic	1398	1510

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**BILL:** SB 294

**AUTHOR:** Negrete McLeod

**TOPIC:** Department of Consumer Affairs: Regulatory Boards

**DATE OF INTRODUCTION:** 2/25/09

**MOST RECENT VERSION:** 6/16/10

**ANALYSIS DATE:** 7/15/10

**BILL'S LEGISLATIVE HISTORY:** Passed Senate. In Assembly re-referred to Committee on Appropriations.

**RECOMMENDED POSITION:** Support

**BOARD POSITION:**

**SUMMARY:** This bill extends the sunset dates on various boards which are scheduled to be sunsetted in 2011. This bill would also adjust the sunset dates for other boards to meet a four year schedule for Legislative Sunset review for all boards and bureaus under the Department of Consumer Affairs' (DCA).

**COMMENT:** Under existing law the Board for Professional Engineers and Land Surveyors will become inoperative on July 1, 2011, and will be repealed on January 1, 2012. This bill would make the Board inoperative and repealed on January 1, 2012. This bill is extending our repeal date because we were not reviewed last year but will be reviewed this fall.

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**BILL:** SB 1111

**AUTHOR:** Negrete McLeod

**TOPIC:** Department of Consumer Affairs Healing Arts Boards

**DATE OF INTRODUCTION:** 2/17/10

**MOST RECENT VERSION:** 2/17/10

**ANALYSIS DATE:** 7/15/10

**BILL'S LEGISLATIVE HISTORY:** Set for hearing in Senate Business, Professions, and Economic Development Committee on 4/19/10. FAILED PASSAGE out of Committee.

**RECOMMENDED POSITION:** Support

**BOARD POSITION:** Bill failed passage prior to review by Board

**SUMMARY:**

This bill is part of the Department of Consumer Affairs' (DCA) Consumer Protection Enforcement Initiative. This bill focuses on the healing arts boards and programs under DCA. This bill would make various amendments to the Business and Professions Code and to the Administrative Procedures Act portion of the Government Code to strengthen the enforcement and administrative disciplinary abilities of the licensing boards and programs relating to the healing arts (such as the Medical Board and the Registered Nurses Board). This bill would also add provisions to the general sections of the Business and Professions Code (which apply to all boards and programs under DCA, not just the healing arts ones) that would allow all boards to include a probation monitoring cost recovery provision in any administrative disciplinary decision that orders probation and that would specifically state that all boards may contract with a collection agency in order to collect any outstanding fees, fines, or cost recovery ordered.

This bill contains language stating the legislative intent of the proposal, as follows:

(a) The Legislature finds and declares the following:

(1) In recent years, it has been reported that many of the healing arts boards within the Department of Consumer Affairs take, on average, more than three years to investigate and prosecute violations of law, a timeframe that does not adequately protect consumers.

(2) The excessive amount of time that it takes healing arts boards to investigate and prosecute licensed professionals who have violated the law has been caused, in part, by legal and procedural impediments to the enforcement programs.

(3) Both consumers and licensees have an interest in the quick resolution of complaints and disciplinary actions. Consumers need prompt action against licensees who do not comply with professional standards, and licensees have an interest in timely review of consumer complaints to keep the trust of their patients.

(b) It is the intent of the Legislature that the changes made by this act will improve efficiency and increase accountability within the healing arts boards of the Department of Consumer Affairs, and will remain consistent with the long-held paramount goal of consumer protection.

(c) It is further the intent of the Legislature that the changes made by this act will provide the healing arts boards within the Department of Consumer Affairs with the regulatory tools and authorities necessary to reduce the average timeframe for investigating and prosecuting violations of law by healing arts practitioners to between 12 and 18 months.

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**COMMENT:**

This bill is being sponsored by the Department of Consumer Affairs on behalf of the healing arts boards. DCA has requested that all boards, even the non-healing arts boards, support this bill. Although the majority of the provisions of this bill do not affect this Board, the provisions that would affect this Board would be beneficial to our enforcement program, such as allowing us to contract with a collection agency to collect outstanding fines. DCA is considering sponsoring similar legislation for the non-healing arts boards, which would include this Board. Nancy Eissler, the Board's Enforcement Program Manager, was on the committee that reviewed the initial proposal that would be used for the legislation relating to the non-healing arts boards; that proposal mirrors this bill. For these reasons, staff recommends that the Board take a "support" position on this bill.

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**BILL:** SB 1171

**AUTHOR:** Negrete McLeod

**TOPIC:** Regulatory boards: operations

**DATE OF INTRODUCTION:** 2/18/10

**MOST RECENT VERSION:** 4/05/10

**ANALYSIS DATE:** 7/15/10

**BILL'S LEGISLATIVE HISTORY:** Passed out of Senate Business, Professions and Economic Development Committee 3/22/10. This bill will not be moving forward.

**RECOMMENDED POSITION:** Support

**BOARD POSITION:** Support

**SUMMARY:** Among other things this bill would:

- Abolish the Joint Committee on Boards, Commissions, and Consumer Protection and authorize the appropriate policy committee of the Legislature to carry out the Joint Committee's duties.
- Terminate the terms of office of each board member and bureau chief within the Department on unspecified dates and would authorize the appointment of successor board members and bureaus chiefs, as specified.
- Delete the provision that a board be designated as a bureau under the Department if it sunsets.
- Require each board and bureau with the Department to submit to the appropriate policy committee at least 22 months before the board's membership is terminated, an analysis and report containing the following:
  - The number of complaints received, investigations, accusations filed, and the number and type of disciplinary actions taken.
  - The average amount of time that elapsed between receipt of a complaint and its resolution, as specified, including median costs per case.
  - The average amount of time between the final resolution of a case and notice of that resolution to the complainant.
  - A copy of the enforcement priorities, including criteria for seeking an interim suspension order.
  - The fund condition for the last four years, as specified.
  - Cost per year to implement the licensing examination, the last date the examination was validated, and the passage rate for each of the last four years.
  - A copy of all sponsored legislation and a description of any budget change proposals.
  - A description of the adequacy of licensing fees.
  - A brief statement as to how the board/bureau has improved its enforcement, public disclosure, accessibility to the public, and fiscal condition over the last four years.
- Authorize the board/bureau to submit its annual report to the committee if it contains the required information and require the board/bureau to post it on their Web site.
- Authorize the appropriate policy committee to investigate any board/bureau under its oversight and to hold public hearings.

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**COMMENT:**

According to the sponsor (and author) of this bill, the purpose of this bill is to update and streamline the sunset review process. This bill would delete the Joint Committee on Boards, Commissions, and Consumer Protection, and move the sunset review process under the auspices of the appropriate policy committee. Boards and bureaus within the Department of Consumer Affairs would be required to create an analysis and in-depth report for submission to the committee and be subject to review as specified. Rather than set a date to sunset (end) a board as in existing law, this bill would instead set a date to sunset the terms of the board's members. If the review process determines that a profession still needs to be regulated, the bill would allow for the re-appointment of the same board members to their existing terms, or appointment of new board members to fill the existing terms if appropriate. The bill will be amended to stipulate a specific sunset date for the members of each board.

This bill is being held in Senate Rules Committee. AB 1659 and AB 2130 address some of the sunset review issues in SB 1171 but include broader review of agencies. The Senate and Assembly Business and Professions Committees will be reviewing the boards and bureaus of DCA. The dates for the scheduled reviews are listed in SB 294.

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**BILL:** SB 1491

**AUTHOR:** Committee on  
B, P & E D

**TOPIC:** Professions and Vocations

**DATE OF INTRODUCTION:** 3/11/10

**MOST RECENT VERSION:** 6/16/10

**ANALYSIS DATE:** 7/15/10

**BILL'S LEGISLATIVE HISTORY:** Passed Senate. In Assembly re-referred to Committee on Appropriations.

**RECOMMENDED POSITION:** Support

**BOARD POSITION:**

**SUMMARY:** This bill is an omnibus bill for the Senate Committee on Business, Professions and Economic Development. Among other things, this bill allows applicants for certification as an engineer-in-training to qualify to take the EIT examination by using engineering education, engineering experience, or a combination of engineering education and experience totaling three years. It prohibits licensure examination fees administered by a public or private organization from being greater than the actual cost of the development and administration of the examination and permits the fee to be paid directly to the organization. Additionally this bill makes clarifying changes in regard to application fees.

**COMMENT:** The Board is in the process of, within the next few years, having public or private organizations administer its examinations. The language in this bill will allow the Board to move in that direction. Further clarification will have to be made but because it is dealing with fees it is better to not place the language in an omnibus bill.